

Sunset Public Hearing Questions for
Interstate Insurance Product Regulation Compact of 2007
Created by Section 56-58-101, *Tennessee Code Annotated*
(Sunset termination June 2017)

1. Provide a brief introduction to the compact, including information about its purpose, statutory duties, staff, and administrative attachment.

RESPONSE:

Tenn. Code Ann. § 56-58-101 permits Tennessee to join the Interstate Insurance Product Regulation Compact (Compact) which has been established as a public agency with delegated authority in the review and approval of specific insurance products. The Compact, through the establishment and operation of the Insurance Interstate Product Regulation Commission (Commission) enhances the efficiency and effectiveness of the way certain insurance products are filed, reviewed and approved in the United States.

The Commission's streamlined processes provide uniformity and speed-to-market in insurance regulation, thus affording consumers quicker access to more competitive insurance products for individual and group life insurance, annuities, long-term care insurance, and disability income insurance. These so-called "asset-based insurance products" are ones that compete with banking and securities products, regulated by the federal government. These products are mobile in nature in that a consumer can move in or out of Tennessee with a product purchased in another state and still claim on the benefits. Federal encroachment or pre-emption for these types of insurance products has long been discussed as a means of achieving uniformity of product content and speed-to-market. The Insurance Compact is the state-based solution to respond and prevent calls for federal intervention by allowing the Compacting States to embrace uniform standards and centralized product review while maintaining oversight of the market regulation of these products in its state marketplace.

The Commission, through the active participation of Compacting States including Tennessee, develops Uniform Standards embedded with strong consumer protections. Once these Uniform Standards are adopted, companies may file one uniform product with the Commission for compliance review by well-qualified form reviewers and actuaries. Once approved by the Commission, the product can be issued in the participating Compacting States, rather than requiring the company to individually file the product for independent review by each state which would all apply similar standards of review.

The Compact law enumerates the purposes of the Compact and its Commission, which are, through means of joint and cooperative action among the Compacting States: 1) to promote and protect the interest of consumers of individual and

group annuity, life insurance, disability income, and long-term care insurance products; 2) to develop Uniform Standards for insurance products covered under the Compact; 3) to establish a central clearinghouse to receive and provide prompt review of insurance products covered under the Compact and, in certain cases, advertisements related thereto, submitted by insurers authorized to do business in one or more Compacting States; 4) to give appropriate regulatory approval to those product filings and advertisements satisfying the applicable uniform standard; 5) to improve coordination of regulatory resources and expertise between state insurance departments regarding the setting of Uniform Standards and review of insurance products covered under the Compact; 6) to create the Interstate Insurance Product Regulation Commission; and 7) to perform these and such other related functions as may be consistent with the state regulation of the business of insurance.

Tennessee enacted the Compact in 2007, codified at Tenn. Code Ann. § 56-58-101. Tennessee has been an active member of the Commission serving on several committees over the last 10 years including the Management Committee, Product Standards Committee, Rulemaking Committee, Communications Committee, and Finance Committee. The Compact's operations are carried out by a professional staff of 11 with an annual budget of \$2,133,547.

2. Who are Tennessee's representatives on the Interstate Insurance Product Regulation Compact Commission created in Article III of this compact? What method does Tennessee use to designate who represents Tennessee on the commission pursuant to Article V, Section 1 of the compact?

RESPONSE:

Pursuant to Tenn. Code Ann. § 56-58-102 the Commissioner of the Department of Commerce and Insurance is designated to serve as Tennessee's member representative to the Commission. The Commission Bylaws permit a member to designate a person or persons to serve in place of the member as the member's designee with respect to Commission business such business includes attending Commission meetings, voting, and serving on one or more Commission committees, provided that the member's designee shall not have an affiliation, through employment or independent contract, with any other member of the Commission or member of the legislative committee or advisory committees. The Compacting State Insurance Commissioner generally attends the meetings of the Commission and Management Committee and when unable to do so, designates a proxy. The Commissioner designates staff with subject matter expertise to serve on Commission committees, such as the Product Standards Committee, to represent Tennessee.

3. What other states have entered into the compact with Tennessee? How many, if any, have withdrawn as authorized at Article XIV, Section 1? Have any states defaulted as defined in Section 2?

RESPONSE:

Currently, 44 states and Puerto Rico have enacted the Interstate Insurance Product Regulation Compact along with Tennessee. No state has withdrawn from or defaulted under the Compact. The Compacting States are: Alabama, Alaska, Arizona, Arkansas, Colorado, Connecticut, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, Puerto Rico, Rhode Island, South Carolina, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin and Wyoming. The following states to date have not joined the Compact: California, Delaware, Florida, Georgia, New York, North Dakota, and South Dakota.

4. How are the by-laws, duly promulgated rules or operating procedures enforced in the member states?

The Commission Bylaws were adopted in September 2006 with minor amendments adopted in September 2007. The Bylaws are on the Commission's website – www.insurancecompact.org/documents/compact_bylaws.pdf.

The Compact provides for the Commission to adopt Rules and Operating Procedures which conform to the Model State Administrative Procedures Act of 1981 as amended and as may be appropriate to the operations of the Commission. In its early years, the Commission, through its Rulemaking Committee, developed a robust set of Operating Procedures and Rules to govern its administrative process and operations, including but not limited to rulemaking, public access, notice & hearing, and resolution of disputes between states. These Operating Procedures were subject to notice and hearing and public comment before being adopted by the Management Committee and Commission. Pursuant to its "Rulemaking Rule," the Commission reviews its Rules and Operating Procedures, including Uniform Standards, every five years to determine if circumstances or underlying assumptions have changed since originally adopted or last amended thus necessitating repeal or amendment.

The Commission's Product Standards Committee develops and recommends Uniform Standards for consideration by the Management Committee and Commission. The Product Standards Committee is a 20-member committee and Tennessee has served on this committee over the years. The Product Standards Committee meets weekly to work on Uniform Standards and holds regular public calls to accept input on its work product. Once the Product Standards Committee recommends Uniform Standards to the Management Committee, the Management Committee commences formal rulemaking, which involves notice and a minimum 60-day comment period along with at least one public hearing. Before the public hearing, the Commission sends written, electronic notice on behalf of the

Commission and the Management Committee to the presiding officer of each legislative chamber, the majority and minority leaders of each chamber, and the chair and ranking member of each committee of jurisdiction in the Compacting States of its intention to adopt a Uniform Standard. Before a Uniform Standard may be promulgated, it must be adopted by a two-thirds supermajority of the entire Management Committee (10 of 14 members required to vote in favor) and two-thirds supermajority of the entire Commission (currently 29 of 44 members required to vote in favor).

Once promulgated, the Commission publishes the Uniform Standard to the Commission members starting the 10-day period for providing notice of opt-out by regulation. The Uniform Standard becomes effective and implemented 90 days after promulgation for all participating Compacting States.

The Commission publishes its rulemaking activities on its website under the Docket including recommended new or amended Uniform Standards as well as advanced rulemaking and five-year review process items. www.insurancecompact.org/compact_rlmkng_docket.htm. Once Rules and Operating Procedures, including Uniform Standards, are promulgated, they are published on the Commission's website under the Record. www.insurancecompact.org/compact_rlmkng_record.htm.

5. How many states have exercised their right to opt out of uniform standards generated by the commission as authorized under Article VII, Section 3, 4, and 5? Has Tennessee exercised that option? If so, please state the circumstances.

RESPONSE:

Each state has the sovereign right to opt out of Uniform Standards either by legislation (at any time) or by regulation contemporaneous with the adoption of the Uniform Standard. The Commission member states demonstrate the willingness to work through concerns with provisions of the Uniform Standards which generally results in strong consumer-oriented requirements that may go beyond model laws or the requirements in a majority of Compacting States.

While some states have triggered their right to opt out while they explore their questions or concerns, only five Compacting States (Arizona, New Jersey, Nevada, Hawaii, and Montana) have opted out of a Uniform Standard. Tennessee has not yet encountered a need to exercise the right to opt out.

6. How is the compact funded? What were the compact's revenues (by source) and expenditures (by object code) for fiscal years 2015 and 2016? What is the cost to Tennessee for the state to participate in the compact? What types of expenses are involved? Have revenues and expenditures been audited annually by a qualified public accountant as required by Article XII, Section 6?

RESPONSE:

The Commission collects a filing fee from the filing companies for each product filing submission. The filing fee is defined in the [IIPRC Terms and Procedures for IIPRC Filing Fees](http://www.insurancecompact.org/industry_resources.htm). A company who wishes to file with the Insurance Compact must pay an annual registration fee as well as a per product filing fee. The Commission's Schedule of Fees is published on its website http://www.insurancecompact.org/industry_resources.htm.

The Commission's fiscal year runs concurrent to the calendar year. The Commission collected \$1,498,107 in revenues in 2015 and had a total of \$1,817,678 in expenditures. As of September 31st, the Commission has collected \$1,684,731 in revenue and a total of \$1,548,531 in expenditures.

There is no cost to Tennessee to participate in the Commission. The Commission is revenue-neutral for Tennessee as the Commission continues to collect and remit state filing fees to the Department. The Commission collected and remitted to Tennessee \$45,265 in 2015 and has remitted \$39,560 as of October 17th for filings submitted to the Commission for use and approval in Tennessee. The Commission has collected and remitted a total of \$292,848 in state filing fees to Tennessee since June 1, 2007 through October 17, 2016.

Each calendar year the Commission is audited and the findings of these audits are reported to the Commission's independent Audit Committee and the Commission Members. The independent auditor's report is published in the Annual Report.

7. Describe the extent of assistance given by Tennessee to other member states and/or other regional compacts during the last five fiscal years. How much has Tennessee received in compensation for this assistance?

RESPONSE:

Tennessee does not provide direct assistance to other member states by virtue of its membership in the Compact. Tennessee, through its Commissioner and staff, actively participates in the Commission committee process. The Commission is a member-driven organization and relies upon its members and their staff to participate in committees that bring forward recommendations to the members of the Management Committee and Commission for their consideration and adoption. The Commission would cover expenses, if necessary, associated with necessary travel to participate in Commission meetings and conference calls.

8. Have any rules and regulations been promulgated to carry out the purposes of the compact? If rules have been promulgated, please cite the reference.

RESPONSE:

Since Tennessee has become a member of the Compact there have been nine Operating Procedures and Rules adopted and promulgated. There were five Operating Procedures and Rules in effect when Tennessee became a member of the Compact. Additionally, there have been 84 Uniform Standards adopted and promulgated after Tennessee enacted the Compact legislation; 14 Uniform Standards were in effect when Tennessee enacted the legislation. Since Tennessee became a member there have been four Operating Procedures and Rules amended since their initial dates of adoption.

The Rulemaking Rule requires that the Compact to review all Uniform Standards, Operating Procedures, and Rules on a five year basis. The first five year review began in 2011, and since then 53 Uniform Standards, Operating Procedures, and Rules have been amended and promulgated.

All adopted Uniform Standards, Operating Procedures, and Rules may be found on the Compact's website, specifically the Record.

<http://www.insurancecompact.org/index.htm>

http://www.insurancecompact.org/compact_rlmkng_record.htm

9. What reports are prepared in conjunction with the operations and activities of the compact? Who receives the reports? Attach copies of any reports issued during fiscal year 2015 and 2016.

RESPONSE:

The Commission prepares an Annual Report. The Annual Report includes the findings from the annual audit and a summary of the operations and activities of the organization. A copy of the Annual Report is provided to all Governors and Insurance Commissioners in the Compacting States. The Annual Report is also electronically distributed to the presiding officer of each legislative chamber and the chair and ranking member of each committee of jurisdiction for insurance as prescribed in the Commission Bylaws. Copies of all Annual Reports may be found here - http://www.insurancecompact.org/annual_report.htm. The 2015 Annual Report is attached and the 2016 Annual Report is expected to be published in April 2017.

The Commission also provides monthly and quarterly financial reports to its Officers, Management Committee, Audit Committee, and Finance Committee. These reports are available upon request.

The Commission's Executive Director provides an operational report at each meeting of the Management Committee and/or Commission. The Commission provides to each member state a quarterly written report of product filing

submissions and state fees remitted. The Commission also publishes the Minutes of all meetings of the Management Committee and Commission on its website

10. Are there any performance measures, indicators or standards by which the efficiency and effectiveness of the compact can be measured? If performance indicators have been established, how well has the compact performed?

RESPONSE:

The Commission tracks and publishes its product operations filing statistics which tracks its operational growth since inception. Product Filing Statistics as of August 31st are attached. The Commission also publishes a timeline of its overall growth, including growth in member states and Uniform Standards, in its Annual Report.

The Commission has experienced tremendous growth since it first became operational in 2006. The Commission grew from 27 member states with 40 percent of the premium volume to 45 member states representing over 75 percent of the premium volume. To date, the Commission has adopted 100 Uniform Standards for 11 major product lines covering over 130 product types. More than 280 life insurance companies have filed with the Commission and received approval for over 4,700 products, reducing potential state-by-state separate filings by over 200,000 submissions. Further, the Commission has consistently kept its overall average turnaround time for product review under 60 days, which is the turnaround time required by the Compacting States set forth in the Commission Operating Procedures.

The growth of the Commission includes growth in its self-generated revenue which comprises fees paid by company filers. In 2007, its first year of self-generated revenue activity, the Commission earned \$24,749 and its expenses were \$533,010. Through August 2016, the Commission earned \$1,580,521 in revenue and incurred \$1,371,894 in expenses and expects both revenues and expenses at year end 2016 will be approximately \$2,000,000, which means revenue has grown 80-fold over the last ten years while expenses have only grown four-fold.

11. Are there any performance measures, indicators or standards by which the efficiency and effectiveness of the compact can be measured? If performance indicators have been established, how well has the compact performed?

See Response to item 10 above.

12. Describe any items related to the compact that require legislative attention as well as your proposed legislative changes.

RESPONSE:

At this time, no legislative changes other than extension or permanent removal of the sunset date are sought.

13. Should Tennessee's participation in the compact be continued? To what extent and in what ways would the absence of the compact affect the public health, safety or welfare?

RESPONSE:

Yes, Tennessee should continue to participate in the Compact. The Compact and its Commission were established to provide interstate collaboration in terms of developing and adopting strong uniform product content requirements for individual and group life insurance, annuities, long-term care insurance, and disability income insurance products. Compacting States, including Tennessee, find these Uniform Standards are detailed, comprehensive and consumer-oriented with more detail in many aspects of requirements than found in state laws and regulations.

14. Please list all compact programs or activities that receive federal financial assistance and, therefore are required to comply with Title VI of the Civil Rights Act of 1964. Include the amount of federal funding received by program/activity.

RESPONSE:

The Commission does not receive federal or state financial assistance.

If the compact does receive federal assistance, please answer questions 15 through 22. If the compact does not receive federal assistance, proceed directly to question 21.

15. Does your compact prepare a Title VI plan? If yes, please provide a copy of the most recent plan.

RESPONSE:

The Commission does not receive federal or state financial assistance.

16. Does your compact have a Title VI coordinator? If yes, please provide the Title VI coordinator's name and phone number and a brief description of his/her duties. If not, provide the name and phone number of the person responsible for dealing with Title VI issues.

RESPONSE:

The Commission does not receive federal or state financial assistance.

17. To which state or federal agency (if any) does your compact report concerning Title VI? Please describe the information your compact submits to the state or federal government and/or provide a copy of the most recent report submitted.

RESPONSE:

The Commission does not receive federal or state financial assistance.

18. Describe your compact's actions to ensure that compact staff and clients/program participants understand the requirements of Title VI.

RESPONSE:

The Commission does not receive federal or state financial assistance.

19. Describe your compact's actions to ensure it is meeting Title VI requirements. Specifically, describe any compact monitoring or tracking activities related to Title VI, and how frequently these activities occur.

RESPONSE:

The Commission does not receive federal or state financial assistance.

20. Please describe the compact's procedures for handling Title VI complaints. Has your compact received any Title VI-related complaints during the past two years? If yes, please describe each complaint, how each complaint was investigated, and how each complaint was resolved (or, if not yet resolved, the complaint's current status).

RESPONSE:

The Commission does not receive federal or state financial assistance.

21. Please provide a breakdown of current compact staff by title, ethnicity, and gender.

RESPONSE:

The Commission currently employs 11 employees and 90% are female. The titles of the employees are as follows:

Executive Director
Assistant Director
Senior Operations Manager
Product Filing Support Coordinator
Product Reviewer (3)

Actuarial Reviewer (2)

Administrative Assistant – full time and part time (2).

22. Please list all compact contracts, detailing each contractor, the services provided, the amount of the contract, and the ethnicity of the contractor/business owner.

RESPONSE:

The Commission currently has annual contracts in effect with three consultants. The purpose of these consultant agreements is to provide product review and regulatory support services to the Commission. The sum total of these agreements is equal to \$223,000.